

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

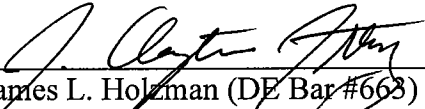
ROBERT H. AYLOR, JR., On Behalf of	:	
Himself and All Others Similarly Situated,	:	
	:	
Plaintiff,	:	Civil Action No. 05-CV-00222 (SLR)
	:	
v.	:	Related Cases:
	:	1:05-CV-00242 (SLR)
XYBERNAUT CORPORATION,	:	1:05-CV-00256 (SLR)
EDWARD G. NEWMAN, STEVEN A.	:	1:05-CV-00268 (SLR)
NEWMAN, M.D., AND THOMAS D.	:	1:05-CV-00310 (SLR)
DAVIS,	:	1:05-CV-00334 (JF)
	:	1:05-CV-00354 (SLR)
Defendants.	:	

**THE AL MESNAD GROUP'S MOTION FOR THE CONSOLIDATION OF ALL
RELATED ACTIONS, TO BE APPOINTED LEAD PLAINTIFF, AND FOR
THE APPROVAL OF SELECTION OF CO-LEAD AND LIAISON COUNSEL**

Pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), Khalid Nassera Al Mesnad, Edward J. Paige, Nurol Menkul Kiymetler A.S., and Joyce R. Starr (collectively the "Al Mesnad Group" or "Movants") hereby move this Court for an Order: (i) consolidating all related actions, (ii) appointing them as Lead Plaintiffs in the consolidated action and any subsequently filed related cases; and (iii) approving their selection of Cohen, Milstein, Hausfeld & Toll, P.L.L.C. and Murray, Frank & Sailor LLP as co-Lead Counsel and Prickett, Jones & Elliott, P.A. as Liaison Counsel. This Motion is based on the accompanying Memorandum of Law in support thereof, the Declaration of James L. Holzman filed herewith, and all prior pleadings and proceedings herein, and such other written or oral argument as may be permitted by the Court.

Respectfully submitted,

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Dated: June 14, 2005

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ROBERT H. AYLOR, JR., On Behalf of	:	
Himself and All Others Similarly Situated,	:	
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Plaintiff,	:	Civil Action No. 05-CV-00222 (SLR)
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	:	1:05-CV-00354 (SLR)
Defendants.	:	

**[PROPOSED] ORDER CONSOLIDATING RELATED CASES AND APPOINTING
LEAD PLAINTIFFS AND CO-LEAD AND LIAISON COUNSEL**

Having considered the papers filed in support of Khalid Nassera Al Mesnad, Edward J. Paige, Nurol Mekul Kiymetler A.S., and Joyce R. Starr's (collectively the "Al Mesnad Group" or "Movants") Motion for Consolidation of All Related Actions, To Be Appointed Lead Plaintiff, and For the Approval of Selection of Co-Lead Counsel and Liaison Counsel pursuant to §21D(a)(3)(B) of the Securities Exchange Act of 1934 (the "Exchange Act") as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4(a)(3)(B), and for good cause shown, the Court hereby enters the following Order.

I. CONSOLIDATION

1. The above-captioned actions are hereby consolidated for all purposes into one action pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and 15 U.S.C. § 78u-4(a)(3)(B)(ii), along with any future-filed or transferred tag-along action relating to these actions.

2. The instant actions and any tag-along actions shall be referred to herein as the "Consolidated Actions." This Order shall apply to the Consolidated Actions and to any and all

cases that are subsequently filed in this Court or transferred to this Court, which action is brought against the defendants and/or any other past or present employee or agent of any defendant, which action is brought on behalf of purchasers of the securities of Xybernaut Corporation ("Xybernaut" or the "Company").

3. The short caption for the Consolidated Actions shall be "*In re Xybernaut Corp. Securities Litigation*, Civil Action No. 05-CV-00222." Every pleading in this Consolidated Action shall bear the following caption:

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

IN RE XYBERNAUT CORP.
SECURITIES LITIGATION

)
) Civil Action No. 05-CV-00222-SLR
)
)

4. This Court requests the assistance of counsel in calling to the attention of the clerk of this Court the filing or transfer of any case which might properly be consolidated as part of the Consolidated Actions.

II. MASTER DOCKET AND MASTER FILE

5. A Master Docket and Master File are hereby established for the Consolidated Actions. The Master File shall be Case No. 05-CV-00222. Entries in the Master Docket shall be applicable to these Consolidated Actions as more fully set forth below. Separate dockets shall also be maintained for each of these Consolidated Actions, and entries shall be made in accordance with the regular procedures of the Clerk of the Court, except as modified by this Order.

III. NEWLY-FILED OR TRANSFERRED ACTIONS

6. When a case that arises out of the subject matter of this action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

- a. file a copy of this Order in the separate file for such action;
- b. mail a copy of this Order to the attorneys for the plaintiff(s) in the newly filed or transferred case and to any new defendant(s) in the newly filed or transferred case; and
- c. make the appropriate entry in the docket for this action.

7. Each new case which arises out of the subject matter of the Consolidated Actions that is filed in this Court or transferred to this Court shall be consolidated with this action and this Order shall apply thereto, unless a party objecting to this Order or any provision of this Order shall, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, file an application for relief from this Order or any provision herein and this Court deems it appropriate to grant such application.

8. During the pendency of this litigation, or until further order of this Court, the parties shall take reasonable steps to preserve all documents within their possession, custody or control, including computer-generated and stored information and materials such as computerized data and electronic mail, containing information that is relevant to or which may lead to the discovery of information relevant to the subject matter of the pending litigation.

IV. APPOINTMENT OF LEAD PLAINTIFF AND CO-LEAD COUNSEL

9. Khalid Nassera Al Mesnad, Edward J. Paige, Nurol Mekul Kiymetler A.S., and Joyce R. Starr (collectively the “Al Mesnad Group” or “Movants”) have moved the Court to be appointed as Lead Plaintiffs in this consolidated class action and to approve the counsel they

retained to be co-Lead and Liaison Counsel.

10. Having considered the provisions of § 21D(a)(3)(B) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B), the Court hereby determines that the Al Mesnad Group are the most adequate plaintiffs and that they satisfy the requirements of the PSLRA. The Court hereby appoints the Al Mesnad Group to be the Lead Plaintiffs and to represent the interests of the class in the Consolidated Actions.

11. Pursuant to § 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), Movants have selected and retained the law firms of Cohen, Milstein, Hausfeld & Toll, P.L.L.C. and Murray, Frank & Sailor LLP to serve as co-Lead Counsel. The Court approves Movants' selection of co-Lead Counsel for these Consolidated Actions. Movants have selected Prickett, Jones & Elliott, P.A. to serve as Liaison Counsel for the Class. The Court approves Movants' selection of Liaison Counsel for these Consolidated Actions.

12. Co-Lead Counsel shall have the following responsibilities and duties, to be carried out either personally or through counsel whom co-Lead Counsel shall designate:

- a. to coordinate the briefing and argument of any and all motions;
- b. to coordinate the conduct of any and all discovery proceedings;
- c. to coordinate the examination of any and all witnesses in depositions;
- d. to coordinate the selection of counsel to act as spokesperson at all pretrial conferences;
- e. to call meetings of the plaintiffs' counsel as they deem necessary and appropriate from time to time;
- f. to coordinate all settlement negotiations with counsel for defendants;
- g. to coordinate and direct the pretrial discovery proceedings and the

preparation for trial and the trial of this matter and to delegate work responsibilities to selected counsel as may be required;

- h. to coordinate the preparation and filings of all pleadings; and
- i. to supervise all other matters concerning the prosecution or resolution of the Consolidated Actions.

13. No motion, discovery request or other pretrial proceedings shall be initiated or filed by any plaintiffs without the approval of co-Lead Counsel, so as to prevent duplicative pleadings or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of the co-Lead Counsel.

14. Co-Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel, as well as the spokespersons for all plaintiffs' counsel, and shall direct and coordinate the activities of plaintiffs' counsel.

15. All counsel for plaintiffs in the Consolidated Actions shall submit to co-Lead Counsel detailed time reports reflecting the hours of work expended by each attorney, their billing rate and the subject matter of the work. Time reports shall be submitted on a quarterly basis with the first report due no later than one month following entry of this Order, and shall continue for each subsequent quarter thereafter or on such schedule as co-Lead Counsel shall determine. Any failure to timely submit such reports to co-Lead Counsel may result in the disqualification of such unreported time from being reimbursed from any common fund, which may be created in the Consolidated Actions.

16. Defendants shall effect service of papers on plaintiffs by serving copies on co-Lead Counsel by overnight delivery service, telecopy or hand delivery. Plaintiffs shall effect service of papers on defendants by serving copies on each of their counsel by overnight delivery

service, telecopy or hand delivery.

17. Each attorney not a member of the Bar of this Court who is acting as counsel for a plaintiff or defendant herein shall be deemed admitted *pro hac vice* to practice before this Court in connection with these proceedings.

IT IS SO ORDERED.

DATED: _____

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2005, I electronically filed **THE AL MESNAD GROUP'S MOTION FOR THE CONSOLIDATION OF ALL RELATED ACTIONS, TO BE APPOINTED LEAD PLAINTIFF, AND FOR THE APPROVAL OF SELECTION OF CO-LEAD AND LIAISON COUNSEL (AND PROPOSED ORDER)** which will send notification of such filing to the following:

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